

MONTANA LEGISLATIVE HISTORY

Chapter 388 19 95

Bill H _____ S 208 Original bill & history ✓ c

H. Committee on Local Government

Hearing Date(s) Mar 02 ✓ c

Mar 23 ✓ c

_____ c

_____ c

Date Out Mar 23 ✓ c

S. Committee on Local Government

Hearing Date(s) Feb 02 ✓ c

Feb 07 ✓ c

_____ c

_____ c

Feb 08 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

SB 208	1995 HISTORY AND FINAL STATUS	96
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	RETURNED TO SENATE WITH AMENDMENTS		
3/18	2ND READING AMENDMENTS CONCURRED	46	0
3/20	3RD READING AMENDMENTS CONCURRED	50	0
3/25	SIGNED BY PRESIDENT		
3/25	SIGNED BY SPEAKER		
3/27	TRANSMITTED TO GOVERNOR		
3/31	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 309		
	EFFECTIVE DATE: 10/01/95		

SB 208	INTRODUCED BY MESAROS, ET AL.	
	GENERALLY REVISE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE	

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO LOCAL GOVERNMENT		
1/21	FISCAL NOTE REQUESTED		
1/26	FISCAL NOTE RECEIVED		
1/26	FISCAL NOTE PRINTED		
2/02	HEARING		
2/08	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/10	2ND READING PASSED	49	0
2/11	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/11	FIRST READING		
2/15	REFERRED TO LOCAL GOVERNMENT		
3/07	HEARING		
3/24	COMMITTEE REPORT—BILL CONCURRED		
3/25	2ND READING CONCURRED	96	2
3/27	3RD READING CONCURRED	95	1
	RETURNED TO SENATE		
4/06	SIGNED BY PRESIDENT		
4/06	SIGNED BY SPEAKER		
4/07	TRANSMITTED TO GOVERNOR		
4/12	SIGNED BY GOVERNOR		
	CHAPTER NUMBER 388		
	EFFECTIVE DATE: 04/12/95		

SB 209	INTRODUCED BY SWYSGOOD, ET AL.	
	REFORM THE PUBLIC ASSISTANCE SYSTEM	
	BY REQUEST OF THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES	

1/20	INTRODUCED		
1/20	FIRST READING		
1/20	REFERRED TO PUBLIC HEALTH, WELFARE & SAFETY		
2/03	HEARING		
2/07	COMMITTEE REPORT—BILL PASSED AS AMENDED		
2/09	FISCAL NOTE REQUESTED		
2/09	FISCAL NOTE RECEIVED		
2/09	FISCAL NOTE PRINTED		
2/09	2ND READING PASSED AS AMENDED	49	0
2/10	3RD READING PASSED	49	0
	TRANSMITTED TO HOUSE		
2/13	FIRST READING		
2/15	REFERRED TO HUMAN SERVICES & AGING		
3/08	HEARING		
3/16	COMMITTEE REPORT—BILL CONCURRED AS AMENDED		
3/27	2ND READING CONCURRED AS AMENDED	94	5

SENATE BILL NO. 208

INTRODUCED BY

A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE LAWS RELATING TO CONFINEMENT COSTS FOR INMATES, INCLUDING COSTS OF MEDICAL CARE; PROVIDING THAT THE BOARD OF COUNTY COMMISSIONERS MAY ESTABLISH THE RATE OF DAILY CREDIT FOR CONFINEMENT COSTS; AND AMENDING SECTIONS 7-32-2222, 7-32-2245, 46-18-403, AND 46-19-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-2222, MCA, is amended to read:

"7-32-2222. Health and safety of prisoners. (1) Each detention center ~~must~~ shall comply with state and local fire codes for correctional occupancy and with sanitation, safety, and health codes.

(2) Designated exits must permit prompt evacuation of inmates and detention center staff in an emergency.

(3) When there is good reason to believe that the inmates may be injured or endangered, the detention center administrator ~~must~~ shall remove them to a safe and convenient place and confine them there as long as necessary to avoid the danger.

(4) (a) If in the opinion of the detention center administrator an inmate under ~~his~~ the administrator's jurisdiction requires medication, medical services, or hospitalization, the expense must be borne by the arresting agency when the arresting agency is not the county in which the inmate is confined, except as provided in subsection (4)(b).

(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the expense must be paid by the county. If the department of corrections and human services is the arresting agency and the inmate is a probation violator, the expense must be paid by the county in which the district court that retains jurisdiction over the inmate is located.

(c) The county attorney shall initiate proceedings to collect from the inmate any charges arising from the medical services or hospitalization for the inmate involved ~~if he determines the inmate is financially~~

1 ~~able to pay in accordance with 7-32-2245."~~

2
3 **Section 2.** Section 7-32-2245, MCA, is amended to read:

4 **"7-32-2245. Payment of confinement costs by inmate.** An inmate found by the sentencing court
5 to have the ability to pay is liable for the costs, including actual medical costs, of ~~his~~ the inmate's
6 confinement in a detention center. The rate for confinement costs ~~rate at which the inmate must pay the~~
7 ~~costs must be established at the sentencing hearing~~ must be determined in accordance with 46-18-403.
8 Confinement costs, other than actual medical costs, must be ordered by the court and must be paid in
9 advance of confinement and prior to payment of any fine."

10
11 **Section 3.** Section 46-18-403, MCA, is amended to read:

12 **"46-18-403. Credit for incarceration prior to conviction.** (1) Any person incarcerated on a bailable
13 offense and against whom a judgment of imprisonment is rendered ~~shall~~ must be allowed credit for each
14 day of incarceration prior to or after conviction, except that ~~in no case shall~~ the time allowed as a credit
15 may not exceed the term of the prison sentence rendered.

16 (2) Any person incarcerated on a bailable offense who does not supply bail and against whom a
17 fine is levied on conviction of the offense ~~shall~~ must be allowed a credit of ~~\$25~~ for each day ~~incarcerated~~
18 of incarceration prior to conviction, except that ~~in no case shall~~ the amount allowed or credited may not
19 exceed the amount of the fine. The daily rate of credit for incarceration must be established annually by
20 the board of county commissioners by resolution. The daily rate must be equal to the actual cost incurred
21 by the detention facility for which the rate is established."

22
23 **Section 4.** Section 46-19-102, MCA, is amended to read:

24 **"46-19-102. Execution of a fine.** (1) If the judgment is for a fine alone, execution may issue
25 ~~thereon~~ on the judgment as on a judgment in a civil case.

26 (2) If the judgment is for a fine and imprisonment until the fine is paid, the defendant must be
27 committed to the custody of the proper officer and detained ~~until the judgment is complied with. The~~
28 ~~imprisonment must not exceed 1 day for every \$25 of the fine~~ and allowed a credit for each day of
29 incarceration as provided in 46-18-403."

30 -END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for SB0208, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

act revising the laws relating to confinement costs for inmates, including costs of medical care.

ASSUMPTIONS:

Department of Corrections and Human Services:

1. This bill will not affect the existing interlocal agreements between the Department of Corrections and Human Services (DCHS) and the counties for the daily rate for incarceration.

2. Probation violators will continue to be the responsibility of the counties.

3. Based upon assumptions 1 and 2, there is no fiscal impact for DCHS.

Department of Justice:

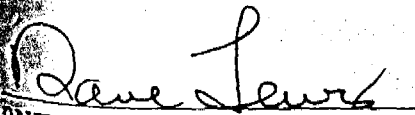
4. The Highway Patrol Division does not track and is unable to determine the costs currently recovered by the county attorneys. Experience indicates that those who are incarcerated are generally unable to pay their confinement costs and do not carry medical insurance to pay for injury or illness.

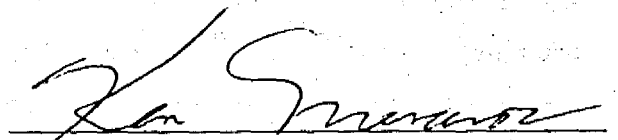
5. Under present law, daily incarceration rates for Highway Patrol prisoners are negotiated in contract between each county and the Department of Justice. The contracts are negotiated for a two-year period and are presently under renegotiation. This bill will not affect the incarceration rates negotiated with each county and will not affect any other terms of interlocal contracts for county detention services.

6. Based upon assumptions 4 and 5, the bill will have no fiscal impact on the Department of Justice.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

The bill may result in an increased recovery of medical expenses from inmates found to have the ability to pay. The bill also may reduce the term of incarceration for inmates receiving credit against fines because the daily rate for credit purposes can be equal to the actual cost incurred by the detention facility. The amount of recovery and reduced incarceration costs, if any, is not subject to reasonable estimate based upon available information.

 1-26-95
DAVE LEWIS, BUDGET DIRECTOR DATE
Office of Budget and Program Planning


KEN MESAROS, PRIMARY SPONSOR DATE

Fiscal Note for SB0208, as introduced

SB208

MINUTES

MONTANA SENATE
54th LEGISLATURE - REGULAR SESSION

COMMITTEE ON LOCAL GOVERNMENT

Call to Order: By VICE-CHAIRPERSON ETHEL HARDING, on February 2, 1995, at 1:00 p.m.

ROLL CALL

Members Present:

Sen. Thomas A. "Tom" Beck, Chairman (R)
Sen. Ethel M. Harding, Vice Chairman (R)
Sen. Sharon Estrada (R)
Sen. Delwyn Gage (R)
Sen. Don Hargrove (R)
Sen. Dorothy Eck (D)
Sen. John "J.D." Lynch (D)
Sen. Jeff Weldon (D)

Members Excused: Sen. Sharon Estrada

Members Absent: none

Staff Present: Susan Fox, Legislative Council
Elaine Johnston, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing: SB 208, SB 214, SB 221
Executive Action:

HEARING ON SB 208

Opening Statement by Sponsor:

SEN. KEN MESAROS, SD 25, Cascade, presented SB 208 which is an act generally revising the laws relating to confinement costs for inmates, including costs of medical care; providing that the board of county commissioners may establish the rate of daily credit for confinement costs. SEN. MESAROS read the changes involved in the SB 208. He stated that by using a daily rate equal to the actual cost incurred the actual cost will be arrived at rather than the prescribed cost that was set in statute of \$25. He continued that there is not a fiscal impact to the Department of Correction or the Department of Justice, but there may a result in an increased recovery of medical expenses from inmates found to have the ability to pay. SEN. MESAROS noted that what SB 208

achieves is if an inmate is found to have the ability to pay, they will be responsible for their own consequences as much as possible and create less tax burden on the taxpayer.

Proponents' Testimony:

Kathy McGowen, representing the Montana Sheriff's and Peace Officer's Association (MSPO), stated that SB 208 is an effort by MSPO and the Montana Association of Counties (MACO) to ease the burden on taxpayers by requiring inmates incarcerated in local detention centers to pay for their incarceration and medical cost when they have the financial resources to do so. She continued that many of the sheriffs across the state sometimes see individuals jailed in particular drug dealers that have personal property and accounts that are very large and have the ability to pay for their incarceration. SB 208 would enable the county to access some of that in return for their care. This would include reimbursement for their food, personal hygiene items, clothing, bedding, nursing care, dental care, medical care, and other items. She continued that it is important to understand that presently the counties can be reimbursed at a rate of \$25 per day and SB 208 would allow the county commissioners to set a rate that is more reflective of the actual cost. Ms. McGowen said that as taxpayers it is a necessary accommodation to make. She said in closing that MACO will be offering an amendment to SB 208 which they support.

Gordon Morris, Director, MACO, supported SB 208 and presented an amendment (EXHIBIT 1). He said that the logic to the amendment is that medical expenses should be an individual's liability inside or outside of jail if they have the ability to pay or there is a third party payor. Mr. Morris said the amendment removes the suggestion that it would be a sentencing liability but a liability from the point of detention. He noted that if the inmate is indigent and detained they would not be assessed any medical costs. He stated that at the point of arrest and the time the inmate is incarcerated if it is determined the capability is there by the inmate or a third party payor to pay, the county can go after the funds. Mr. Morris went on that it is the case right now if a person is in jail on a bailable offense, the offense can be worked off at a rate of \$25 a day but the actual cost of incarceration may run as high as \$70 a day so the inmate shall work off at the rate of the actual cost. He asked the committee's favorable consideration of SB 208.

Bill Rappold, Chairman, Pondera County Commission, urged the committee's support of SB 208.

John Strandell, Under-Sheriff of Cascade County and a Board Member MSPO, supported SB 208 as it makes criminals more accountable for the costs they incur while being confined to county jail. He stated that for years there has been the perception that when criminals are confined to county jail the local taxpayers are fully responsible for the costs incurred and

this perception must change. He said that within SB 208 courts will order sentenced inmates to pay the costs of confinement if it is determined they can pay and if the courts so order local government then can initiate proceeding to collect payment upon the costs of confinement immediately. Mr. Strandell also noted his support of the MACO amendment. He cited an example that in Cascade County there is an agreement with Credit Associates, a local collection agency, allowing the County Attorney to initiate action to collect on medical payments and to file claims with Credit Associates. While only limited success, he said he anticipates more success as they take more inmates at task to court. He noted that current law allows judges the discretion to order inmates to pay for the cost of confinement but many times the judges in court find the inmate indigent when that may not be the case. Mr. Strandell emphasized that it is time to make the inmates fully accountable for their actions and he asked for a do pass on SB 208.

Dennis McCave, Lieutenant, Yellowstone County Sheriff's Department, supported SB 208. He supported strongly making inmates responsible for their own medical costs while incarcerated. He stated this will relieve taxpayers of a burden that many times is not necessary or reasonable, third party for profit industries avoid paying medical costs normally paid if the person was not in jail, and inmates seek medical treatment they would not normally seek or need if not incarcerated, pre-existing conditions become taxpayers responsibilities and SB 208 will relieve that responsibility. He continued that inmates will inflict injuries or aggravate conditions to obtain early release and to enact inmates medical responsibility has been proven to reduce the abuse on medical staff allowing to focus on those with actual needs, provides education to inmates on personal health care, and establishes reasonable and responsible co-payment systems. Mr. McCave said that this in no way will this deprive an inmate to receive medical services, facilities will still maintain medical staffing and contracts. He urged support of the committee for the relief on taxpayers.

Andy Whiteman, Budget Management Director, Yellowstone County, stated that currently they must budget \$135,000 for medical costs for jailed prisoners that could be used to pay for extra deputies. He said they would like to have the opportunity to recoup some of this money so they can pay for other costs of law enforcement in the future in Yellowstone County. He urged the committee's support of SB 208.

Opponents' Testimony: none

Questions From Committee Members and Responses:

SEN. DON HARGROVE stated that there is currently in the Montana Code procedure for seizure of assets from convicted persons under civil action. He then asked Mr. Strandell if there was conflict with this or is a separate civil action was needed or if this

bill will stand alone? Mr. Strandell answered that it needs to be a specific law relating to confinement and medical costs therefore no conflict.

SEN. HARGROVE asked if it was true that current law requires payment for medical and if it is true, does it need to be included in SB 208 also? Mr. Strandell, replied that current law does require that medical payments may be sought from inmates after release. He continued that the MACO amendment would allow additional payment to be sought while indigent if they have assets.

SEN. HARGROVE asked how it is determined if the inmate has assets or is there another civil action required in order to look into bank accounts? Mr. Strandell answered that there are some civil action required but also each person is attached to an investigating officer and if a search warrant was at some time issued there is access to the inmates assets.

SEN. HARGROVE asked SEN. MESAROS if when drafting the bill there was any thought to go farther and have an inmate pay for someone else's medical bill if he or she caused the problem. SEN. MESAROS stated that he did not consider that and to his knowledge that has not been discussed. SEN. HARGROVE directed the same question to Mr. Strandell. Mr. Strandell emphasized that that was something that should be looked at but he did mention that in cases where an inmate causes such a problem, they can recover costs through a court order.

SEN. J.D. LYNCH asked if this bill would cover the State Prison? SEN. MESAROS referred the question to Mr. Morris. Mr. Morris did not know the answer.

SEN. LYNCH asked if a person gets arrested and sentenced for 10 to 15 days and is broke, but later he gets a job, can you bill this person later? SEN. MESAROS responded that that is in the hands of the court to determine. SEN. LYNCH further asked if it is based on the ability to pay at the time of incarceration? SEN. MESAROS noted that it sets the ability to pay up front.

SEN. LYNCH asked if there is a joint checking or savings account involved to receive payments from, can the county access this money even though it belongs to another person also? SEN. MESAROS answered that that would be covered in other statutes and the courts. SEN. HARGROVE added that in statute there is protection for the other owner of the account.

SEN. DOROTHY ECK asked Mr. Whiteman what kinds of costs are included in the actual cost. Mr. Whiteman answered that presently it costs around \$55 a day to house a prisoner in the Yellowstone Detention Center but by law it can only be worked off at \$25 a day. He continued that the \$55 involves all the operating costs to house the prisoner plus the debt service to

pay on the outstanding bonds and the county is subsidizing the difference between the \$55 and \$25.

SEN. ECK asked that under SB 208 \$55 a day would be charged and the inmate would receive credit on that fine. Mr. Whiteman answered that was correct.

SEN. ECK also asked if the same \$55 rate will be paid for community correction programs? Mr. Whiteman did not have an answer to the question.

SEN. DELWYN GAGE asked about the language on page 2, line 8 and 9, if it is contemplated that the daily credit for incarceration would be considered payment prior to incarceration? SEN. MESAROS stated that his interpretation was that the payment must be received before incarceration.

SEN. GAGE noted that he felt they were defeating the purpose of the bill if a person could get a credit for \$65 a day for five days and that person pays \$325 before confinement, when the five days are served the \$325 must be returned for credit earned. Mr. Strandell stated that they want to send a strong signal out that the inmate shall be responsible for confinement costs before confinement. He continued that there will be some indigents who will not be able to pay for the costs and the court can sentence that person to jail as a payment for each day served. It also would allow the county to at a later date go claim payment.

SEN. LYNCH asked about a person who does have the ability to pay the confinement cost but refuses so instead he serves the time in jail until paid off and does not pay anything therefore getting off scott free. Mr. Strandell stated that SEN. LYNCH was correct.

SEN. GAGE asked Mr. Morris in regards to the amendment if there is an conflict with page 1, 4(a) where the administrator requires the inmate to have medical services and when the inmate is responsible for the costs. Mr. Morris emphasized that that particular issue was discussed quite extensively. He noted that it is the understanding that this section covers from a procedural stand point the relationship between the county and the arresting agency in terms of ultimate liability.

SEN. GAGE asked SEN. MESAROS if he would like a passage and approval date on the bill? SEN. MESAROS strongly suggested that it be placed on the bill.

Closing by Sponsor:

SEN. MESAROS stated that it is important to focus on the intent of the bill which is an inmate found to have the ability to pay they should be burdened with their actual costs of confinement. He said that by setting the daily rates by the county commissioners they will be able to achieve their intent. SEN.

MESAROS supported the MACO amendment and urged an effective date upon passage and approval and the support of the committee.

HEARING ON SB 214

Opening Statement by Sponsor:

SEN. BILL WILSON, SD 22, Great Falls, presented SB 214 which will make some funding permanent that was temporary from the 1993 Legislative Session. In 1993 the Legislature enacted a law that allocated 25% of the fees for boat registration to a special revenue account to be used by the Department of Fish Wildlife and Parks (DFWP) for the improvement of regional boating facilities. At that same time the Legislature provided for a five member boating advisory council to advise the DFWP of how to spend the funds. The advisory council does not receive any compensation and is strictly voluntary. SEN. WILSON presented the committee with projects completed in the 1994\1995 biennium, and projects needed (EXHIBIT 2 AND 3). He stated that this is a good program which has done good work but the funding mechanism will run out July 1, 1995. SB 214 will make the funding permanent.

Proponents' Testimony:

REP. PAUL SLITER, HD 76, Somers, supported SB 214. He suggested an amendment with a ten year sunset so the DFWP can justify the money they are spending and if they fail to justify the money will revert back to the county general fund.

Ken Hoovestol, Montana Boating Association, stated that REP. BOHARSKI who sponsored the bill in the 1993 Session wanted to be put on record supporting SB 214. He continued that he agreed with the ten year sunset amendment and thought it would be a good idea. The advisory council would be changed somewhat and the way the wording in the 1993 bill made the advisory council deal with only the money from the fees. SB 214 expands the council's advisory capacity to the DFWP for all motor boat money. He said the council will take care of questions regarding accountability. Mr. Hoovestol noted that when a person pays their registration which region of the state their money will go to. The other 75% of the registration fees goes to the county general fund. The sunset put on two years previous was put on to hold the DFWP accountable and not to be a temporary project. Mr. Hoovestol pointed out that there were some real benefits to the council and it was the understanding if the council did a good job the sunset would no longer be necessary.

Dave Seifer, President, Montana Boating Association, and a Member of the Advisory Board, stated that in 1993 they worked very hard to get this bill and the benefits have been tremendous to the boaters. There have been improvements in areas such as Glasgow, and Cooney Reservoir. The impact on the counties was not as great as what they expected due to the increase in boat registrations by 3,425 units from two years ago. He continued that the

MONTANA SENATE
1995 LEGISLATURE
LOCAL GOVERNMENT COMMITTEE

ROLL CALL

DATE 2-2-95

[illegible]

SEN:1995
wp.rollcall.man
CS-09

MONTANA
ASSOCIATION OF
COUNTIES

DATE 2-2-70
BILL NO. SB 208
2711 Airport Road
Helena, Montana 59601
(406) 442-5209
FAX (406) 442-5238

AMENDMENT TO

SB 208

SPONSORED BY: SENATOR KEN MESAROS

Page 2, line 4, following "confinement" insert: AND MEDICAL

Following "inmate." insert (1)

Beginning on line 10 insert:

(2) AN INMATE SHALL BE RESPONSIBLE FOR THE ACTUAL COSTS
OF MEDICATION, MEDICAL SERVICES OR HOSPITALIZATION WHILE THE
INMATE IS DETAINED IN A DETENTION CENTER. INABILITY TO PAY
SHALL NOT BE A FACTOR IN PROVIDING NECESSARY MEDICAL CARE
FOR AN INMATE. NOTHING IN THIS SECTION SHALL RESTRICT AN
INMATE'S RIGHT TO USE A THIRD PARTY PAYOR.

DATE 2/2/95SENATE COMMITTEE ON LOCAL GOVERNMENTBILLS BEING HEARD TODAY: SB 208 SB 214 SB 221

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PLEASE PRINT

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Check One

Name	Representing	Bill No.	Support	Oppose
Greg Van Housen	State Farm Ins.	221		
Gordon Morris	MACo	208	✓	
Dr. Bang	MHP	208		
DENNIS McCave	Yellowstone County Sheriff	208	✓	
Andy Whitman	Yellowstone County	208	✓	
Bill Rappold	Gardiner County	208	✓	
Troy McGee	MT. Police Protective Soc.	221	✓	
Ken Hoarestad	MT. Boating Assn.	214	✓	
Dave Seyfert	MT Boating Assn	214	✓	
Col. Harington	Montana County Treasurers	214		✓
Bill Verwolf	City of Helena	221		
Gordon Morris	MACo / Lake to	214		✓
Clayton Bain	Great Falls	221	✓	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

CHAIRMAN BECK said that they sell their cattle at the livestock yards in Butte.

SEN. LYNCH said that if the amendment passed, they would remove the requirement and they would be able to sell their cattle to SEN. BECK'S neighbor.

CHAIRMAN BECK did not worry about the cattle but was concerned that they would sell hay right next door.

Motion/Vote: SEN. LYNCH MOVED TO ADOPT THE AMENDMENT. THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. GAGE MOVED SB 197 DO PASS AS AMENDED.

Discussion:

SEN. ECK asked SEN. GAGE to go over the fiscal implications and if they were still looking at a reimbursement to counties of 3.2 million dollars per year?

SEN. GAGE said they had been appropriating \$265,000 for centuries and an additional \$985,000 plus the what the Prison Ranch would generate.

CHAIRMAN BECK said the ranch would generate less than \$50,000.

Vote: THE MOTION CARRIED UNANIMOUSLY.

EXECUTIVE ACTION ON SB 208

Motion: SEN. LYNCH MOVED TO ADOPT THE AMENDMENTS BY SEN. MESAROS.

Discussion:

Susan Fox noted that they had added an effective date to the amendments SEN. KEN MESAROS proposed.

SEN. GAGE felt there could be a conflict between the amendment and the language on page 1 sub 4(a). He pointed out the bill said the arresting agency was responsible for the medical cost and the amendment said the inmate was responsible.

CHAIRMAN BECK said there was a second amendment that would be coming up to address SEN. GAGE'S question. He asked SEN. GAGE if he agreed with the second amendment.

SEN. GAGE said they did take care of his concern.

Vote: THE MOTION CARRIED UNANIMOUSLY.

Motion/Vote: SEN. GAGE MOVED TO ADOPT THE AMENDMENTS BY MACO.
THE MOTION CARRIED UNANIMOUSLY.

Motion: SEN. GAGE MOVED SB 208 DO PASS AS AMENDED.

Discussion:

SEN. LYNCH said he supported the motion but he felt there would be some problems in terms of someone who would not pay the fines because they could work it off at \$75 a day. Some people would benefit from that procedure.

SEN. GAGE agreed with SEN. LYNCH that some people would just sit out the fine.

Vote: THE MOTION CARRIED UNANIMOUSLY.

DISCUSSION ON SB 214

Discussion:

SEN. LYNCH suggested they adopt an amendment that would make counties revenue neutral. He said the treasurer from Lake County said if they were going to be giving away some goodies, the state should be doing that and not the local government.

Ms. Fox said the only amendment she had was a termination date and she would look into SEN. LYNCH'S suggestion. She mentioned a way to approach his concern was to go to a decal fee.

SEN. LYNCH said it would be fine if they could go to a user fee rather than counties taking a hit.

CHAIRMAN BECK said they would hold up SB 214 until Thursday.

SEN. HARGROVE asked if there was a possibility the bill would get tabled and should they take the time to work on an amendment.

CHAIRMAN BECK said that was a possibility but to be fair he wanted to wait until Thursday when they had an amendment to consider.

EXECUTIVE ACTION ON SB 221

Discussion:

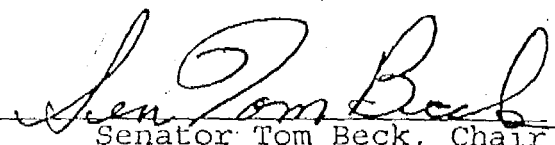
CHAIRMAN BECK said the bill allowed for a AD HOC increase for benefits for certain members of the police officers retirement system and their survivors including state employees.

SENATE STANDING COMMITTEE REPORT

Page 1 of 2
February 8, 1995

MR. PRESIDENT:

We, your committee on Local Government having had under consideration SB 208 (first reading copy -- white), respectfully report that SB 208 be amended as follows and as so amended do pass.

Signed: 

Senator Tom Beck, Chair

That such amendments read:

1. Title, line 7.

Following: line 6

Strike: "AND"

Following: "7-32-2222,"

Insert: "7-32-2242,"

Following: "MCA"

Insert: "; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE"

2. Page 1, line 22.

Following: "in"

Insert: "7-32-2245 or"

Following: "(4) (b) "

Insert: "of this section"

3. Page 1, line 25.

Following: "county"

Insert: ", except as provided in 7-32-2245"

4. Page 1, line 28.

Following: "located"

Insert: ", except as provided in 7-32-2245"

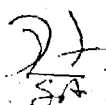
5. Page 2, line 3.

Insert: "Section 2. Section 7-32-2242, MCA, is amended to read:

"7-32-2242. Use of detention center -- payment of costs.

(1) Local government, state, and federal law enforcement and correctional agencies may use any detention center for the confinement of arrested persons and the punishment of offenders, under conditions imposed by law and with the consent of the governing body responsible for the detention center.

(2) (a) If a person is confined in a detention center by an arresting agency not responsible for the operation of the detention center, the costs of holding the person in confinement must be paid by the arresting agency at a rate that is agreed upon by the arresting agency and the detention center and that covers the reasonable costs of confinement, excluding capital

 Amd. Coord.

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construction costs, except as provided in 7-32-2245 or subsection (2)(b) of this section.

(b) If a city or town commits a person to the detention center of the county in which the city or town is located for a reason other than detention pending trial for or detention for service of a sentence for violating an ordinance of that city or town, the costs must be paid by the county, except as provided in 7-32-2245. If the department of corrections and human services is the arresting agency and the inmate is a probation violator, the costs must be paid by the county in which the district court that retains jurisdiction over the inmate is located, except as provided in 7-32-2245.

(c) Payments must be made to the government unit responsible for the detention center or to the administrator operating a private detention center under an agreement provided for in 7-32-2201, upon presentation of a claim to the arresting agency.

(3) If a person is a fugitive from justice from an out-of-state jurisdiction, the costs, including medical expenses, of holding the person in a detention center pending extradition must be paid by the out-of-state jurisdiction."
Renumber: subsequent sections

6. Page 2, line 4.
Strike: "confinement"
Following: "inmate."
Insert: "(1)"

7. Page 2, line 10.
Insert: "(2) An inmate is responsible for the actual costs of medication, medical services, or hospitalization while the inmate is detained in a detention center. Inability to pay may not be a factor in providing necessary medical care for an inmate. This section does not restrict an inmate's right to use a third-party payor."

8. Page 2, line 30.
Insert: "NEW SECTION. Section 6. Effective date. [This act] is effective on passage and approval."

-END-

REP. MILLS noted that he reads these reports published in the newspaper.

REP. EWER suggested to stay with the language in the amendment "and be provided" because the notion is already in law and the public will know they will be provided.

CHAIRMAN BOHARSKI discussed the amendments in the section of codes of what it will say in the newspaper and asked Mr. Campbell if the code section that deals with giving a copy of the report to an individual allow them to give it free of charge. Mr. Campbell agreed to run a search regarding this question.

Motion/Vote: REP. DENNY MOVED TO ADD ON LINE 21, AFTER THE WORD "AVAILABLE", INSERT "AND WILL BE PROVIDED". Motion to adopt amendment carried 11-6 with REPS. ANDERSON and MCCULLOCH voting no.

Motion: REP. EWER MOVED SB 121 BE CONCURRED AS AMENDED.

Discussion:

CHAIRMAN BOHARSKI stated his concerns with passage of this bill and stated that all this bill requires is that a summary can be published and he said he did not support this bill.

REP. BRAINARD said he agreed with CHAIRMAN BOHARSKI adding that the public already has the idea that government is trying to hide things and even though there is the freedom of information act and copies are available, it would be better to publish this once a year summary in newspapers, so people can be notified.

REP. DENNY asked REP. MILLS if he reads the report in the paper or gets a copy at the county. REP. MILLS responded he reads the report in the paper.

REP. DENNY asked if the public knows when this report is going to be published. REP. MILLS said a person can't miss it while going through the paper.

Vote: Motion carried 11-6 with REPS. BOHARSKI, ANDERSON, BRAINARD, KEENAN MILLS and WYATT voting no.

REP. FORBES will carry to the House floor.

HEARING ON SB 208

Opening Statement by Sponsor:

SEN. KEN MESAROS, SD 25, Cascade, said SB 208 is an act to revise the laws relating to confinement costs including medical payment by an inmate. There is currently a confinement cost set for \$25.

The daily rate of incarceration will be established annually by the Board of County Commissioners.

SEN. MESAROS explained the language in the bill and noted there are some cases where the inmates do have the ability to share in the costs of their confinement. This would lessen the burden to taxpayers and allows the local authorities to defer these costs.

Proponents' Testimony:

Gordon Morris, Director, Montana Association of Counties (MACO), said this bill has been jointly worked on and developed prior to the session by MACO as well as the Montana Sheriff and Police Officers Association (MSPOA). This is an effort to clarify the existing law relative to the expenses for incarceration and medical costs. He explained the added language on page 3 and the sections addressing medical concerns. Mr. Morris said this bill has been carefully crafted and more time has been spent on it than any other bill brought before this committee. He encouraged favorable consideration on SB 208.

Chuck O'Reilly, Sheriff, Lewis & Clark County, representing the Montana Sheriffs and Peace Officers Association (MSPOA), said SB 208 is an effort of the MSPOA to ease the burden on taxpayers by requiring inmates incarcerated in local detention centers to pay their incarceration and medical costs when they have the financial resources to do so. They often see individuals jailed, particularly drug dealers, that have several thousands of dollars in their commissary or personal property accounts but the taxpayers foot the bill for all of the associated costs with their incarceration. This includes food, personal hygiene items, clothing, bedding, nursing care, dental care, medical care, supervision costs, programmatic and recreational costs.

Existing law allows a sentencing court to order, as part of a sentence, the inmate to pay confinement costs as determined during a sentencing hearing. This bill would provide a mechanism whereby the Board of County Commissioners can establish the dollar figure for the daily rate of incarceration based upon actual costs of operating the detention facility. Sheriff O'Reilly urged the committee's support for SB 208. EXHIBIT 2

Charles Brooks appearing on behalf of the Board of County Commissioners, Yellowstone County and the City of Billings, agreed with previous testimony in support of SB 208. Currently the cost to operate and house prisoners in the Yellowstone County jail is \$42 a day and this does not include the capital recovery for the building itself. With that added, the cost is approximately \$55 per day. They believe this bill is a proper approach to recover costs.

Opponents' Testimony: None

Informational Testimony: None

Questions From Committee Members and Responses:

REP. DIANA WYATT questioned when the county sets the fees, how it impacts the other entities such as the taxpayers that are already paying and the state who may have a joint venture with some of the counties that they have contracted to pay a particular rate. Mr. Morris referred to Section 1 and explained the language and concluded that it is very clear.

REP. BOHLINGER questioned the financial savings that might be available to counties under the provisions of SB 208. Mr. Morris referred to the fiscal note with the bill that states it is very difficult to determine what kind of recovery would be realized in the terms of incarceration. He believed in most cases there would be no recovery because the incarcerated people will be determined to be indigent to start with. There is the potential in this bill for something to be gained back from the county relative to medical costs.

Mr. Morris gave an example of people in the county jail that have not yet had their day in court and are innocent until proven guilty who should not be charged prior to being sentenced. This bill would allow an assessment of all of their medical costs to be paid by the individuals.

REP. BOHLINGER asked if there were records of medical costs that have been paid. Mr. Morris said he publishes a county statewide analysis of budgets and the sheriff's budget is the single largest component of the county general fund assessed on a statewide basis. The single largest component within the sheriff's department is budgeting jail costs. Medical costs are becoming astronomical in virtually every county. Mr. Morris cited the example of a detainee that gave birth while in jail and the cost to the county was well in excess of \$100,000.

REP. EWER questioned if a person has to pay that is not convicted. Mr. Morris referred to page 3 and explained what makes the distinction on medical costs.

REP. HERRON referred to page 2, line 29, and asked if parents would be responsible for the expenses for a child under the age of 21. Mr. Morris explained the provisions under the youth court act expressly provides for parental obligations in terms of the cost of a youth in need of supervision. He also discussed the scenario of youths under 21 being tried as an adult based upon the charges against them.

REP. BRAINARD asked for clarification on page 3, line 8. Mr. Morris explained people who are Medicaid-eligible and have such a determination and people who are Indian Health Service-eligible, would be third-party payers and the county would collect from the third party payer.

REP. McCULLOCH followed up on the question if a person was beaten up while incarcerated and needed medical attention and was found innocent upon trial would they have to incur the cost while incarcerated. Mr. Morris answered that the sheriff and officers of the jail would potentially be liable while the individual was incarcerated.

REP. EWER questioned if a person is jailed and the stress causes them a heart attack, who would pay. Mr. Morris explained that the individual would be taken to the hospital and if they had their own health insurance coverage, they would take the responsibility of any medical costs incurred.

{Tape: 2; Side: A}

REP. EWER questioned since the new jail was built, how many people in Lewis and Clark County have attempted or committed suicide. Sheriff O'Reilly responded as far as attempted, this is a regular event in almost every case and happens numerous times during the year.

REP. EWER asked if he agreed that this is a very significant public policy of who bears the cost. Sheriff O'Reilly agreed.

REP. EWER asked if the four people who committed suicide were waiting for their trials or had been convicted. Sheriff O'Reilly answered one was waiting for trial and the other three had been convicted.

REP. EWER asked what the offense was for the one waiting to be tried. Sheriff O'Reilly said that was several years ago and he did not recall.

REP. EWER asked if it was not a common phenomenon that the people they most worry about committing suicide are young people brought in on a DUI charge where the trauma is so great. Sheriff O'Reilly responded the single greatest category of risk is the juvenile and they are not held in adult jails any longer. They view all inmates coming in as suicide risks. They utilize various procedures and documents to try to determine if an individual has suicidal tendencies. The Mental Health Service is called immediately to deal with those individuals.

Sheriff O'Reilly explained this bill was designed at the request of the sheriffs who constantly see individuals such as drug dealers come in with \$20,000, have not been to a dentist in years and while incarcerated they want dentures, a hernia operation, or have a pre-existing condition and this is the main concern.

Closing by Sponsor:

The sponsor closed and urged the support of the committee.

HOUSE OF REPRESENTATIVES

Local Government

ROLL CALL

DATE 3-7-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. Bill Boharski, Chairman	✓		
Rep. Jack Herron, Vice Chairman, Majority	✓		
Rep. David Ewer, Vice Chairman, Minority	✓		
Rep. Chris Ahner	✓		
Rep. Shiell Anderson	✓		
Rep. Ellen Bergman	✓		
Rep. John Bohlinger	✓		
Rep. Matt Brainard	✓		
Rep. Matt Denny	✓		
Rep. Rose Forbes	✓		
Rep. Toni Hagener	✓		
Rep. Bob Keenan			
Rep. Linda McCulloch	✓		
Rep. Jeanette McKee	✓		
Rep. Norm Mills	✓		
Rep. Debbie Shea	✓		
Rep. Joe Tropila	✓		
Rep. Diana Wyatt	✓		

SB 208

Senate Local Government

Hearing

SB 208 is an effort of the MSPOA to ease the burden on taxpayers by requiring inmates incarcerated in local detention centers to pay their incarceration and medical costs when they have the financial resources to do so. As sheriffs we oftentimes see individuals jailed, particularly drug dealers, that have in their commissary or personal property accounts several hundred or even several thousands of dollars and the taxpayers foot the bill for all of the associated costs with their incarceration. This includes food, personal hygiene items, clothing, bedding, nursing care, dental care, medical care, supervision costs, programmatic and recreational costs, etc.

Existing law allows a sentencing court to order, as part of his sentence, an inmate to pay confinement costs as determined during a sentencing hearing. SB 208 ~~with the proposed amendments~~ provides for an inmate to pay costs for all incarceration including pre-trial. It further provides a mechanism whereby the Board of County Commissioners can establish the dollar figure for the daily rate of incarceration based upon actual costs of operating the detention facility. This will be accomplished by resolution annually.

Further this bill changes the existing rate of credit for time served from \$25.00 per day to the daily rate as established by the County Commissioners. This section specifically relates to those inmates who have been sentenced to a fine and who elect to "sit it out" rather than pay.

Chuck R. R. R.
Sheriff
Mr. Sheriff & Peace
Officers Adan

HOUSE OF REPRESENTATIVES

VISITOR'S REGISTER

Local Government

COMMITTEE

BILL NO. _____

DATE 3-7-95

SPONSOR(S) _____

PLEASE PRINT

PLEASE PRINT

PLEASE PRINT

NAME AND ADDRESS	REPRESENTING	BILL	OPPOSE	SUPPORT
W. James Kembel	City of Billings	SB SB 208		✓
Ray Beck	DWR	SB 87		✓
Ann M. Miller	DNR	SB 87		
Charles R. Brooks	Yellowstone County	SB 208		✓
Gordon Monig	MA Co	SB 82 : 117		✓
Chuck O'Reilly	Mt Shemps & Perry Officers Assn	SB 208		✓
Carroll Smith	Board of Investments	SB 87		✓
Stuart D. Ogden	MT Trucking Assn.	SB 87		✓
Lee Haverfield	Flathead Co.			

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORM
ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

Motion/Vote: REP. KEENAN MOVED SB 135 BE CONCURRED IN AS AMENDED.
Motion carried unanimously.

Discussion: CHAIRMAN BOHARSKI will ask REP. CLARK if he will carry SB 135 to the House floor.

EXECUTIVE ACTION ON SB 208

Motion: REP. MILLS MOVED SB 208 BE CONCURRED IN.

Discussion:

REP. BOHLINGER noted this is an opportunity for counties to be reimbursed for the medical costs incurred while housing prisoners. The costs can greatly exceed the \$25 that is now allowed for counties to be reimbursed. He urged the committee do concur on SB 208.

REP. ANDERSON questioned the language in the bill because it does not provide for an inmate from paying his confinement costs if he is not found guilty of anything.

CHAIRMAN BOHARSKI stated his concern about pre-existing conditions of a person in confinement and also if the person confined is found not guilty.

REP. BERGMAN asked who is paying now. CHAIRMAN BOHARSKI said the county is currently paying and this bill would make the prisoner pay the medical costs.

REP. MILLS said if the person is confined and found not guilty, they should pay their own medical costs and this should be understood without being in the bill. If they were confined and required medical care it would not be any different if they were at home and required the same medical care. If the person is found guilty and had medical care, then it should be paid for by the arresting agency.

REP. ANDERSON noted they only pay the confinement costs once the court orders it. He asked the committee to pass the bill as it is.

Vote: Voice vote was taken. Motion carried unanimously.

EXECUTIVE ACTION ON SB 222

Motion/Vote: REP. KEENAN MOVED THAT SB 222 BE CONCURRED IN.
Motion carried 17-1 with REP. DENNY voting no.